Victorian Healthcare Association
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Submission

26 June 2020

Consultation response: Long Service Benefits Portability Regulations 2020

About the Victorian Healthcare Association

The Victorian Healthcare Association is the not-for-profit peak body supporting Victoria's public health and community services to deliver high quality care. The VHA represents Victorian public hospitals, registered community health services, multi-purpose services, and bush nursing services.

On behalf of its members the VHA delivers vision, value and voice for the Victorian health sector by shaping policy, advocating on key issues and supporting members to respond to system reform. Our role is to contribute insight and expertise to promote collaboration and transformation of the Victorian healthcare system.

The VHA welcomes the opportunity to provide feedback on the proposed *Long Service Benefits Portability Regulations 2020* (draft Regulations) and Portable Long Service Leave Benefits Scheme (the scheme). Please note, to maintain consistency with the *Long Service Benefits Portability Act 2018* (the Act) and the *Health Services Act 1988*, the VHA has used the term 'community health centre' to define its 28 registered community health service members.

Introduction

The VHA and its members support the extension of long service leave (LSL) portability to workers who have not had access to this entitlement, such as cleaners and security workers. However, the VHA continues to oppose the inclusion of community health centres in the scheme on the basis that community health centres already provide portability and a higher rate of leave entitlements to their employees. In addition, the cost of compliance for community health centres will be greater than other sectors due to the unprecedented processing of dual LSL entitlements.

To date, the VHA has provided considered feedback on the drafting of the *Long Service Benefits Portability Act 2018* and Interim Regulations. In previous submissions, the VHA has outlined concerns regarding the adverse effects of inclusion in the scheme on community health centres, including:

- the potential of the scheme to duplicate existing portable LSL entitlements available to employees through Fair Work instruments
- the burdensome administrative requirements resulting from double payments of leave entitlements
- the increased cost for employers and detrimental impact on staffing and service capacity.

Despite the unique challenges facing community health centres and acknowledged in the Regulatory Impact Statement (RIS), the VHA and its members are disappointed that the draft Regulations have sought to include the sub-sector in the scheme.

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The unanticipated inclusion of community health centres - despite previous assurance of exclusion - will require these organisations to make significant financial and administrative adjustments to comply. To meet the scheme requirements, community health centres are seeking funding support to ensure an efficient and successful transition.

This submission is based on extensive consultation with community health centres, industrial relations experts and advisors. It highlights gaps in the RIS and offers considered recommendations that would improve the implementation of the scheme for community health centres and employees.

Recommendations

Cost of administrative impact

The VHA is supportive of the extension of portability benefits to previously unentitled employees. However, for the majority of employees working for community health centres the introduction of this scheme will duplicate existing portability entitlements.

This duplication means that, for community health centres, payment into the scheme for eligible employees will result in complex and significant funding challenges. This requirement transfers the risk of a possible LSL liability into an actual cash payment, as opposed to existing accruals; which are contingent on an employee reaching the entitlement threshold before converting into a cash payment.

The requirement to administer two streams of long service leave entitlement and the resulting financial cost of the scheme to community health centres, unnecessarily jeopardises the financial sustainability of community health services; placing increased risk and strain on already pressured organisations and boards.

The RIS states that the estimated annual net cost increase to the sector (low scenario) is $215,000 based on 682 FTE. According to preliminary data provided by community health centres to the VHA, the estimated FTE is closer to at least four times that amount at 2,500 FTE which equates to an annual net cost range of $1.3 million - $2.0 million. The VHA acknowledges there are additional FTE which have not been captured in this data. The RIS assumes the annual average salary to be $70,000 per annum. Using the same preliminary data this average is 7% higher at $75,000. Taking the high scenario from the RIS of 3,412 FTE and the higher average salary, this equates to an annual net cost range of $2.0 million – $3.1 million.

The total cost to the community health sector is also significantly higher when capturing administrative and infrastructure costs required of providers to implement the scheme effectively. Because the RIS assesses impact according to FTE without acknowledging actual employee headcount, it does not account for the administrative time required to process the thousands of employees included in the scheme. It also does not factor in the significant proportion of community health workers who work part time.

Community health centres provided feedback to the VHA on the anticipated administrative costs, generating a wide range of estimates of up to hundreds of thousands of dollars. This reflects the limitations of existing payroll systems that are currently not designed to calculate the unprecedented dual LSL accruals required by the scheme.

Implementing the split processing of two LSL schemes across payroll and HR systems will require individual centres to invest both time and funding towards: the purchase of software systems with capacity to manage the double accruals of LSL; staff training; and personnel for processing and quarterly reporting.

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This increased administrative burden will be significantly onerous for smaller community health centres functioning in already financially and resource constrained environments, particularly where they do not currently operate with reasonable surpluses, as the RIS implicitly assumes.

The draft Regulations would also introduce a complex dynamic between overlapping LSL entitlements, changes to the employers covered, the definition of 'community service work', and the application of the no double-dipping clause in practice. To promote clarity and efficiency, we recommend that directives and training for the scheme's implementation be provided to employers prior to its commencement. This would assist community health centres to fulfil requirements in a timely manner and address some of the administrative burden attached to the scheme.

Recommendation 1: The VHA recommends that if community health centres are to be included, that comprehensive funding be paid to providers to cover the net cost impact and initial change management costs as they transition into the scheme. This funding would assist providers to maintain vital programs and services to serve vulnerable communities in greater need due to the effects of COVID-19.

Recommendation 2: The VHA recommends that if community health centres are to be included in the scheme, after the first 12 months an audit is conducted of the administrative costs paid in compliance with the scheme, and the sector is reimbursed. This funding would support community health centres as they outlay significant administrative costs (such as software systems, staff training, personnel for processing and reporting, and auditing) associated with efficient, prompt and ongoing compliance.

Recommendation 3: The VHA supports the submission made by the Victorian Hospitals' Industrial Association (VHIA) and calls for immediate clarification and fairness of implementation of overlapping LSL entitlements, changes to the employers covered, definition of 'community service work', and application of the double dipping clause in practice.

Recommendation 4: To address the lack of clarity provided by the Authority on how the day-to-day operation of the scheme will function, the VHA recommends that clear directives and training for all employers be delivered to assist providers to embed the scheme as 'business as usual' within workplace practice.

No backdating

The VHA endorses the collective call in other submissions that are firmly against the backdating of scheme payments.

The negative financial consequences for the community health sector are openly acknowledged in the RIS, where it is stated that the cost impacts of the scheme:

- would be equal to many providers' operating surplus
- may cause providers to look at removing the existing multiple-employer portability entitlements during the next round of enterprise bargaining, which may detrimentally impact all staff within the community health sub-sector if less generous benefits are introduced
- would result in cuts to staff and services for some providers as the only way to afford the additional costs associated with the scheme. For some providers this will require them to become reliant on grant funding to deliver their usual services. With a smaller staffing team, providers will be less competitive in a tender market to procure replacement service and program funding.

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The VHA seeks clarity regarding backdating of the Regulations, as neither the draft Regulations nor the RIS confirm whether implementation of the scheme will be applied retrospectively.

Implementation of backdating in practice would be an onerous activity for community health centre staff who, in most cases, would be required to manually derive data from rudimentary payroll and HR software systems.

A significant number of community health centres have minimal surplus revenue and insubstantial cash holdings and would be unable to comply with a back paid levy without extensive cuts to their services. As acknowledged in the RIS, compliance with the scheme would severely affect the financial viability of some providers. Back payments would exacerbate this impact and likely result in additional service cuts to programs and staff, some of whom serve Victoria's most vulnerable and remote populations.

Recommendation 5: The VHA strongly opposes any retrospective backdating of the proposed Regulations and recommends that, in consideration of the substantial financial impact on the sector, only prospective payment of the levy is applied from the date of implementation of the permanent Regulations. This would assist providers to maintain vital programs and services to serve vulnerable communities in greater need due to the effects of COVID-19.

For further information contact

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